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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,440

04/12/2007

Rupert Bevan

ZCL P17881

1015

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7590

11/04/2009

Pabst Patent Group LLP

1545 PEACHTREE STREET NE

SUITE 320

ATLANTA, GA 30309

EXAMINER

OGDEN JR, NECHOLUS

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

11/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,440	Applicant(s) BEVAN ET AL.	
	Examiner Necholus Ogden, Jr.	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/09</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Election/Restrictions

1. Newly submitted claims 8-9 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The method claims are distinct from the composition claims originally presented and examined.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-9 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

1. Claim 8 rejected because the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass is withdrawn. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 8 rejected under 35 U.S.C. 101 is withdrawn.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over RU (2180213) or RU (2185814) in view of Albrecht et al (2006/0121807).

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4. RU '213 and RU '814 disclose and comprise cosmetic preparation compositions comprising sapropel as an active ingredients for the treatment skin disorders or skin cleansing (see abstracts).
5. RU '213 and RU '814 are silent with respect to the addition of fatty acid soap in their cosmetic preparations compositions.
6. Albrecht et al disclose a cosmetic preparation composition that includes fatty acid soaps such as potassium and sodium fatty acids (0004 and 0034). Albrecht et al further teach that fatty acid soaps provide benefits to the skin while treating the skin for pathogens and dead skin. Moreover, Albrecht et al include humectant agents such as glycerine (0100 and 0130) to further aid in the moisturizing of the skin during the cosmetic preparation process.
7. It would have been obvious to one of ordinary skill in the art to include the fatty acid soap to the cosmetic preparations of RU '213 or RU '814 since Albrecht et al teach that fatty acid soaps and glycerine are well known in cosmetic preparations and further they continue to provide skin treating qualities as well as cost effective benefits (0002).

Response to Arguments

8. Applicant's arguments filed 7-20-2009 have been fully considered but they are not persuasive.
9. Applicant argues that the prior art of record fails to disclose soap, glycerine and sapropel in combination. Applicant further defines fatty acid and glycerine to distinguish the two components.

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10. The examiner contends and respectfully disagrees that the prior art, in combination, does not suggest the claimed invention as alleged by applicant. Specifically, applicant's attention is directed to paragraphs 0100 and 0130 of Albrecht et al, where glycerine is suggested as an additional component added in the cosmetic preparation compositions. Moreover, since each of the prior art of record is directed towards the use of sapropel, soaps, and glycerine in cosmetic preparation compositions, one of ordinary skill in the art would have been motivated to include the ingredients in an added or cumulative manner with the expectation of beneficial or synergistic results in the absence of a showing to the contrary.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden, Jr. whose telephone number is 571-272-1322. The examiner can normally be reached on M-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Necholus Ogden, Jr./
Primary Examiner
Art Unit 1796

no